

CHAPTER 18**LIQUEFIED PETROLEUM GAS****Authority**

N.J.S.A 34:1-20; 34:1A-3(e) and 21:1B-2;
Reorganization Plan No. 002-1998.

Source and Effective Date

R.2005 d.401, effective October 24, 2005.
See: 37 N.J.R. 564(a), 37 N.J.R. 4399(a).

Chapter Expiration Date

Chapter 18, Liquefied Petroleum Gas, expires on October 24, 2010.

Chapter Historical Note

Chapter 18, Rentals, was adopted as R.1970 d.86, effective July 21, 1970. See: 2 N.J.R. 47(b), 2 N.J.R. 71(a).

Chapter 18, Rentals, was repealed by R.1980 d.234, effective May 30, 1980. See: 12 N.J.R. 170(c), 12 N.J.R. 388(a).

Chapter 18, Uniform Fire Code, was adopted as new rules by R.1985 d.66, effective February 19, 1985. See: 16 N.J.R. 3339(b), 17 N.J.R. 394(a).

Subchapter 4, Fire Safety Code, was adopted as R.1986 d.214, effective June 16, 1986. See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

Pursuant to Executive Order No. 66(1978), Chapter 18, Uniform Fire Code, was readopted as R.1990 d.72, effective January 4, 1990. See: 21 N.J.R. 3344(a), 22 N.J.R. 337(b).

Subchapter 3, State Fire Prevention Code, was repealed and Subchapter 3, State Fire Prevention Code, was adopted as new rules by R.1992 d.105, effective March 2, 1992. See: 23 N.J.R. 3554(a), 24 N.J.R. 740(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Uniform Fire Code, was readopted as R.1995 d.58, effective January 3, 1995. See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Pursuant to Reorganization Plan No. 002-1998, Chapter 18, Uniform Fire Code, was recodified as N.J.A.C. 5:70, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Chapter 18, Liquefied Petroleum Gas, was originally codified in Title 12 as Chapter 200, Liquefied Petroleum Gas. Chapter 200 was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 200 expired on May 15, 1985.

Chapter 200, Liquefied Petroleum Gas, was adopted as new rules by R.1985 d.403, effective August 5, 1985. See: 17 N.J.R. 1379(a), 17 N.J.R. 1899(a).

Pursuant to Executive Order No. 66(1978), Chapter 200, Liquefied Petroleum Gas, was readopted as R.1990 d.436, effective August 3, 1990. Subchapter 5, API 2510 Installations, was adopted as new rules and former Subchapter 5, Submittal of Plans or Project Data Report, was recodified as Subchapter 6, Submittal of Plans or Project Data Report, by R.1990 d.436, effective September 4, 1990. See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Pursuant to Executive Order No. 66(1978), Chapter 200, Liquefied Petroleum Gas, was readopted as R.1995 d.391, effective June 23, 1995. See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Subchapter 7, Violations, Administrative Penalties and Hearings, was adopted as R.1997 d.220, effective May 19, 1997. See: 29 N.J.R. 836(a), 29 N.J.R. 2463(b).

Pursuant to Reorganization Plan No. 002-1998, Chapter 200 of Title 12, Liquefied Petroleum Gas, was recodified as N.J.A.C. 5:18, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Liquefied Petroleum Gas, was readopted as R.2000 d.269, effective June 5, 2000. See 32 N.J.R. 738(a), 32 N.J.R. 2425(a).

Chapter 18, Liquefied Petroleum Gas, was readopted by R.2005 d.401, effective October 24, 2005. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:18-1.1 Purpose and scope
- 5:18-1.2 Applicability and jurisdiction
- 5:18-1.3 Compliance
- 5:18-1.4 Registration
- 5:18-1.5 Inspection of LPG systems by the Bureau
- 5:18-1.6 Container markings
- 5:18-1.7 Reporting emergency situations
- 5:18-1.8 through 5:18-1.10 (Reserved)

SUBCHAPTER 2. DEFINITIONS

- 5:18-2.1 Definitions

SUBCHAPTER 3. NFPA NO. 58 SYSTEMS

- 5:18-3.1 Standards adopted by reference
- 5:18-3.2 Container markings
- 5:18-3.3 Container storage
- 5:18-3.4 Distributing points, distributing plants and industrial plants
- 5:18-3.5 Standby and peak shaving plants
- 5:18-3.6 Cylinder exchange cabinets
- 5:18-3.7 Unsafe container or system

SUBCHAPTER 4. NFPA NO. 59 SYSTEMS

- 5:18-4.1 Standards adopted by reference
- 5:18-4.2 Container markings
- 5:18-4.3 Container storage
- 5:18-4.4 Fencing
- 5:18-4.5 Fire protection

SUBCHAPTER 5. API 2510 INSTALLATIONS

- 5:18-5.1 Standards adopted by reference
- 5:18-5.2 Container markings
- 5:18-5.3 Container storage
- 5:18-5.4 Fencing
- 5:18-5.5 (Reserved)

SUBCHAPTER 6. RELEASE OF PLANS OR SUBMITTAL OF NOTICE OF LP-GAS INSTALLATION AND APPROVAL OF NEW LP-GAS SYSTEMS

- 5:18-6.1 Submittal of plans
- 5:18-6.2 Release of plans
- 5:18-6.3 Approval of new LP-Gas system
- 5:18-6.4 Submittal of notice of LP-Gas installation

SUBCHAPTER 7. VIOLATIONS, ADMINISTRATIVE PENALTIES AND HEARINGS

- 5:18-7.1 Violations/penalties
- 5:18-7.2 Hearings
- 5:18-7.3 Correction of violations

SUBCHAPTER 8. ANNUAL ASSESSMENTS

- 5:18-8.1 Amount of annual assessment
- 5:18-8.2 Payment of annual assessment

5:18-8.3 Forms

SUBCHAPTER 9. QUALITY CONTROL AND
MAINTENANCE AUDITS

- 5:18-9.1 Registration of LPG bulk and industrial plants
- 5:18-9.2 Quality control manual and records
- 5:18-9.3 Pressure vessel maintenance, repair and alteration
- 5:18-9.4 Certificates of operation and audits

SUBCHAPTER 10. LICENSING

- 5:18-10.1 Licenses required
- 5:18-10.2 Application for licensure; fees
- 5:18-10.3 Employee certification
- 5:18-10.4 Fill plant and dispensing station operator training
- 5:18-10.5 Suspension and revocation of licenses and certifications and alternative sanctions

APPENDIX A. AVAILABILITY OF STANDARDS AND
PUBLICATIONS REFERRED TO IN THIS CHAPTER

APPENDIX B. BUREAU OF CODE SERVICE

SUBCHAPTER 1. GENERAL PROVISIONS

5:18-1.1 Purpose and scope

(a) The purpose of this chapter is to provide minimum standards for liquefied petroleum gas systems for the preservation of health and safety of the general public.

(b) This chapter shall apply to the design, construction, location, installation, maintenance and operation of liquefied petroleum gas systems.

(c) The following pertain to existing LP-Gas systems:

1. LPG systems within the scope of this chapter which were installed in accordance with the rules in effect at the time of installation may be continued in service unless the continued operation of such systems constitutes a serious and substantial threat to health and safety.

2. Existing systems shall be registered with the Bureau if required by N.J.A.C. 5:18-1.4 and containers shall be marked in accordance with N.J.A.C. 5:18-1.6.

(d) This chapter shall not apply to the following:

1. The transportation of liquefied petroleum gases over the highways in intrastate or interstate commerce;

2. Liquefied petroleum gas vapor piping inside of buildings; or

3. Portable cylinders of not more than 40 pounds when used as intended for outdoor cooking purposes.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Deleted old N.J.A.C. 12:200-1.1, "Title and Citation." Recodified from N.J.A.C. 12:200-1.2 and 1.3, making 1.2 new 1.1(a) and 1.3(a)-(c) as new 1.1(b)-(d). In new N.J.A.C. 12:200-1.1(d)2, added group R-3

occupancies and "one and two family residential." In (d)3, added "vapor" to describe piping and deleted language, "... that is downstream of final stage regulation and outside ...," and replaced with "inside" of buildings.

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

In (d), inserted "/R-4" following "R-3" in 2, added new 3 and recodified former 3 and 4 as 4 and 5.

Recodified from N.J.A.C. 5:18-1.2 amended by R.2003 d. 200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote (b); deleted former (c) and recodified former N.J.A.C. 5:18-1.2 as (c); rewrote (d).

5:18-1.2 Applicability and jurisdiction

(a) The issuance of permits for, and the inspection of, new liquefied petroleum gas vapor delivery systems of 2,000 gallons or less aggregate water capacity shall be the responsibility of the local construction official and plumbing subcode official, as set forth in N.J.A.C. 5:23-3.4. The local construction official shall also be responsible for handling unsafe structures as set forth in N.J.A.C. 5:23-2.32.

(b) The issuance of permits for, and the inspection of, new liquefied petroleum gas systems of vapor delivery greater than 2,000 gallons aggregate water capacity and all liquid withdrawal systems shall be the responsibility of the Bureau.

(c) In addition to compliance with the requirements of this chapter, liquefied petroleum gas systems of over 2,000 gallons aggregate water capacity, or individual containers of over 1,000 gallons water capacity, shall be subject to registration and to annual inspection by the fire official, as set forth in the Uniform Fire Code, N.J.A.C. 5:70-2.4B and 2.5.

(d) Cylinder exchange cabinets shall be subject to inspection by the fire official, in accordance with section F-3605.0 of the Fire Prevention Code, N.J.A.C. 5:70-3.

(e) In addition to compliance with the requirements of this chapter, LPG systems at locations identified as fill plants shall be subject to inspection by the local fire official, in accordance with section F-3609.0 of the Fire Prevention Code, N.J.A.C. 5:70-3.

(f) LP-Gas facilities including producers, bulk plants and industrial plants of 10,000 gallons water capacity or more, gas utility plants, marine or pipeline terminals or tank farms shall comply with and shall be inspected in accordance with the quality control program outlined in N.J.A.C. 5:18-9.

Recodified from N.J.A.C. 12:200-1.7 by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Prior N.J.A.C. 12:200-1.2 was "Purpose," which was recodified to N.J.A.C. 12:200-1.1.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-1.2, Existing installations, recodified to N.J.A.C. 5:18-1.1(c).

5:18-1.3 Compliance

(a) All liquefied petroleum gas systems shall be installed and maintained in a safe operating condition in accordance with these rules.

(b) Zoning considerations shall be the responsibility of the municipality in which the system is located.

(c) All buildings or structures housing liquefied petroleum systems and foundations for containers shall be constructed in accordance with the applicable provisions of the Uniform Construction Code, N.J.A.C. 5:23.

(d) Only a qualified person shall sell, fill, or refill liquefied petroleum gas at a dispensing or distributing point.

(e) No person shall install, remove, connect, disconnect, fill or refill any liquefied petroleum gas container without permission of the owner of the container.

1. Exception: Containers at one or two-family residential properties may be disconnected and moved provided that the qualified person removing the container secures the fill line, gauge openings, fuel lines and pump connections against tampering and leaves the container in a safe and secure location.

(f) The owner of an LP-Gas container found to be in a hazardous condition shall remove the container from the site as soon as possible or necessary, but in no case later than five working days of written notification by the Bureau.

(g) The Commissioner may order the owner or operator of a system to meet additional requirements:

1. Where unusual conditions exist; and

2. When it is necessary for the protection of the health, safety or welfare of persons.

(h) LP-Gas systems having a product vapor pressure greater than that allowed in the referenced standards for commercial propane, with the product measured at 100 degrees Fahrenheit, shall be subject to the approval of the Commissioner.

(i) When liquefied petroleum gas equipment is to be abandoned or temporarily placed out of service, the user/owner shall comply with the provisions of Section F-3608.0, Abandonment of Equipment, of the Fire Prevention Code, N.J.A.C. 5:70-3.

(j) Any person seeking a waiver or modification of any requirement set forth in this chapter in a specific situation where strict adherence to the requirement poses a hardship, or where technological advances allow an alternative that provides equivalent protection, may submit a request for such waiver or modification to the Bureau Chief. The application shall include a statement that explains why strict adherence to the rules would be problematic, or why an

alternative would be appropriate, and a statement that documents that the alternative(s) requested would be consistent with the intent of the Act and of this chapter and would not result in any increased health or safety risk. The Bureau Chief may grant any such waiver or modification only upon a finding that doing so would not result in any increased health or safety risk and would be consistent with the intent of the Act and of this chapter.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Recodified from N.J.A.C. 12:200-1.8. Prior N.J.A.C. 12:200-1.3 was "Scope," which was recodified as N.J.A.C. 12:200-1.1.

Deleted old (j) and (k) regarding specific containers and distance requirements, recodifying old (l) as new (j) and adding new (k). In (e), deleted reference to systems utilizing containers of over 30 pounds product capacity and added "at a dispensing or distributing point."

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

Amended by R.2003 d.455, effective December 1, 2003.

See: 35 N.J.R. 3474(a), 35 N.J.R. 5371(b).

Added (j).

5:18-1.4 Registration

(a) All existing LPG systems of greater than 2,000 gallons water capacity vapor delivery service, all liquid withdrawal systems and all fill plants shall be registered by the owner with the Bureau.

1. The submission of plans pursuant to N.J.A.C. 5:18-6.1 shall be accepted as satisfying the registration requirement.

(b) When there is a change in the ownership of an existing LPG system, the new owner shall register with the Bureau within ten business days of the change in ownership.

(c) All LP-Gas facilities, including producers, bulk plants and industrial plants of 10,000 gallons water capacity or more, gas utility plants, marine or pipeline terminals or tank farms, shall be registered with the Bureau in accordance with N.J.A.C. 5:18-9.1.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-1.4, Reporting emergency situations, recodified to N.J.A.C. 5:18-1.7.

5:18-1.5 Inspection of LPG systems by the Bureau

(a) All LPG systems of greater than 2,000 gallons water capacity vapor delivery service, all liquid withdrawal service systems and all fill plants shall be inspected annually by the Bureau, with the exception of LPG systems meeting the requirements of N.J.A.C. 5:18-9, which shall be subject to a triennial audit, and those subject to local inspection, as set forth in N.J.A.C. 5:18-1.2(c).

(b) Upon successful completion of an initial inspection by the Bureau, a site-specific certificate of operation shall be issued.

(c) The certificate of operation shall indicate that the LPG system is in compliance with the applicable requirements of this chapter and shall be posted at a conspicuous location where representatives of the Bureau and members of the public may inspect it.

(d) Failure to remove any violations found as a result of an inspection made by the Bureau shall result in issuance of a written notice to abate the violations. Correction of violations shall be done in accordance with N.J.A.C. 5:18-7.3.

Recodified from N.J.A.C. 12:200-1.10 by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Prior N.J.A.C. 12:200-1.5 was "Repeal of prior chapters."

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Repeal and New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Section was "Reporting of fires, explosions or accidents".

5:18-1.6 Container markings

(a) Containers of 100 pounds product capacity or more shall be legibly marked "FLAMMABLE GAS" and the name of the gas to indicate contents, such as "FLAMMABLE GAS—PROPANE" or "FLAMMABLE GAS—BUTANE," except as provided in (b) below. Compliance with the marking requirements of Title 49 of the Code of Federal Regulations shall be accepted as meeting this requirement.

1. Exception: Container marking shall not be required for containers at one or two-family residential properties.

(b) A company identification system for marking containers which is approved by the Commissioner shall be acceptable in lieu of compliance with (a) above at processing plants.

(c) As required by N.J.A.C. 5:11, all ASME containers shall be stamped with the National Board number. The number shall be readily visible on the container shell or head and shall not be concealed by paint or otherwise. The National Board registration number shall be affixed at all times for inspection purposes. The stamping may be affixed to a metal tag or shall otherwise be permanently marked in lettering of not less than 5/16 of an inch in height.

(d) All LP-Gas containers exceeding 250 gallons individual or aggregate water capacity shall be provided with a marker plate or sign indicating who should be called in the event of an emergency involving the LP-Gas container. The marker or sign shall have lettering not less than one inch high and the lettering shall contrast in color with the background of the LP-Gas container. The marker or sign shall include the following:

1. The name of the LP-Gas supplier, owner or operator who will respond to the emergency; and
2. That person's telephone number.

Repealed by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Section was "Validity."

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Amended by R.2004 d.199, effective June 7, 2004.

See: 36 N.J.R. 910(a), 36 N.J.R. 2733(a).

In (d), inserted the second sentence in the introductory paragraph.

5:18-1.7 Reporting emergency situations

(a) The LP-Gas supplier, owner or operator shall respond when notified to all LP-Gas emergencies occurring at his systems and shall maintain a 24-hour phone service.

(b) Whenever there is a fire or explosion or accident involving the public which results in serious injury or loss of life or significant property damage from liquefied petroleum gas, the Bureau shall be notified in writing by the user/owner before the end of the first working day following the incident.

Recodified from N.J.A.C. 12:200-1.9 by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Prior N.J.A.C. 12:200-1.4 was "Effective Date."

Repealed by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Section "Existing installations" was recodified to 1.2.

Recodified from N.J.A.C. 5:18-1.4 and amended by R.2003 d. 200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-1.7, was reserved. Rewrote the section.

5:18-1.8 (Reserved)

Repealed by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Section "Compliance" was recodified to 1.3.

5:18-1.9 (Reserved)

Repealed by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Section "Reporting emergency situations" recodified to 1.4.

5:18-1.10 (Reserved)

Repealed by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Section "Reporting of fires, explosions or accidents" was recodified to 1.5.

SUBCHAPTER 2. DEFINITIONS

5:18-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means Liquefied Petroleum Gas Act, N.J.S.A. 21:1B-1 et seq.

"API" means American Petroleum Institute.

"Approved" means any product certified, or classified, or labeled, or listed by a nationally recognized testing agency, unless specifically banned by order of the Commissioner or by rule.

"ASME" means American Society of Mechanical Engineers.

"Bulk plant" means a facility, the primary purpose of which is distribution of gas, that receives LP-Gas by tank car, tank truck or piping and distributes it to the end user by portable container (package) delivery, tank truck or gas piping, and that has bulk storage of 2,000 gallons or more water capacity and has container-filling or truck-loading facilities on the premises. "Bulk plant" also means and includes any facility that transfers LP-Gas from tank cars on a private track directly into cargo tanks.

"Bureau" means the Bureau of Code Services in the Division of Codes and Standards of the Department of Community Affairs.

"Cargo tank" means a container used to transport LP-Gas over a highway as liquid cargo, either mounted on a conventional truck chassis or as an integral part of a transporting vehicle in which the container constitutes, in whole or in part, the stress member used as a frame, which is a permanent part of a transporting vehicle.

"Commissioner" means the Commissioner of Community Affairs of the State of New Jersey or his or her authorized representative.

"Container" means any vessel including cylinders, tanks, portable tanks and cargo tanks used for storing liquefied petroleum gas.

"Cylinder" means a container having a capacity not exceeding 1,000 pounds of water.

"Cylinder exchange cabinet" means a vented storage compartment that is used to store full and empty US DOT-type LP-Gas containers.

"Department" means the Department of Community Affairs.

"Dispensing station" means fixed equipment where LP-Gas is stored and dispensed into portable containers. The public can be permitted access to the dispensing station area.

"Distributing plant" means a facility, the primary purpose of which is the distribution of gas, and which receives liquefied petroleum gas in tank car, truck transport or truck lots, distributing this gas to the end user by portable container (package) delivery, by tank truck or through gas piping. Such plants have bulk storage (2,000 gallons (7.6 cubic meters (m³)) water capacity or more) and have con-

tainer filling or truck loading facilities on the premises. So-called "bulk plants" are considered as being in this category.

"Distributing point" means a facility, other than a distributing plant or industrial plant, which normally receives gas by tank truck, and which fills small containers or the engine fuel tanks of motor vehicles on the premises. Any such facility having liquefied petroleum gas storage of 100 gallons (0.4 cubic meters (m³)) or more water capacity, and to which persons other than the owner of the facility or his or her employees have access, is considered to be a distributing point. A liquefied petroleum gas service station is one type of distributing point.

"Fill plant" means a person who sells odorized LP-Gas to the ultimate consumer and is not regularly engaged in the business of selling it to other retail LP-Gas dispensers.

"Hazardous material" means any substance defined as a flammable or combustible liquid in accordance with the Flammable or Combustible Liquids Code, NFPA No. 30-1993 or a material classified by Hazardous Material Regulations, 49 CFR Parts 171 through 177, as a flammable solid, liquid or gas.

"Industrial plant" means an industrial facility that utilizes gas incidental to plant operations, with LP-Gas storage of 2,000 gallons aggregate water capacity or more, and that receives LP-Gas by tank truck, truck transport or truck lots, where it is used locally or throughout the plant for engine fuel for forklifts or other industrial trucks or as part of a processing operation.

"Line of adjoining property" means:

1. The near side of adjacent real estate not owned or possessed; or
2. The far side of adjacent real estate not owned or possessed when the real estate cannot be built upon, specifically utility easements of record, non-navigable waterways, and railroad right-of-ways.

"Liquefied petroleum gas" or "LP-Gas" or "LPG" means any material which is composed predominantly of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal or isobutene), and butylenes.

"LP-Gas system" means an assembly of one or more containers with a means of conveying LP-Gas from the container(s) to dispensing or consuming devices (either continuously or intermittently) and which incorporates components intended to achieve control of quantity, flow, or pressure in the liquid or vapor state.

"Marketer" means a person engaged primarily in the sale of odorized LP-Gas to the ultimate consumer or to retail LP-Gas dispenser(s). "Marketer" shall also mean and include the owner or operator of a bulk plant.

"Nationally recognized testing agency" means a laboratory, such as the Underwriters' Laboratories, Inc., American Gas Association Laboratories, or the Factory Mutual Engineering Corporation or any similar testing organization acceptable to the commissioner.

"NFPA" means National Fire Protection Association.

"N.J.A.C." means the New Jersey Administrative Code.

"N.J.S.A." means the New Jersey Statutes Annotated.

"Person" means an individual, firm, association or corporation.

"Portable container" means a USDOT or ASME container of not more than 1,000 pounds water capacity.

"Producer" means the owner of LP-Gas at the time it is recovered at a gas processing plant or refinery.

"Professional engineer" means a person licensed to practice professional engineering in New Jersey by the New Jersey Board of Professional Engineers and Land Surveyors.

"Property line" means the line of adjoining property or the near side of any public way.

"Public way" means a government owned thoroughfare, such as a street or highway, designed for public use by lawful procedure.

"Qualified person" means a person selected by an employer and trained to perform a specific task or duty involving LP-Gas, who has the degree of competence necessary to accomplish the work in a safe manner.

"Referenced standard" means N.J.A.C. 5:18-3.1(a), or 5:18-4.1(a), or 5:18-5.1(a) as applicable.

"Serious injury" means an injury which required treatment by a doctor, such as a fracture, or a condition requiring admittance to a hospital for at least 24 hours.

"Tank" means a container of more than 1,000 pounds water capacity used for the storage or utilization of liquefied petroleum gas.

"USDOT" means the United States Department of Transportation.

"Wholesaler" means any person who purchases LP-Gas and may sell it to retail LP-Gas dispensers. "Wholesaler" may include, but is not limited to, producers and marketers.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Deleted definitions for "API-ASME," "BOCA," and "shall," and added definitions: "API," "Dispensing device," "Distributing plant," "Distributing point," "Important building," "NFPA." Added "portable tanks and cargo tanks" to definition of "container."
Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a) 33 N.J.R. 1399(d).
Deleted "Important building".
Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Rewrote the section.

SUBCHAPTER 3. NFPA NO. 58 SYSTEMS

5:18-3.1 Standards adopted by reference

(a) The "Liquefied Petroleum Gas Code," NFPA 58-1998, is hereby adopted by reference, except that:

1. Subsections 1-1.2 and 1-1.3, Section 1-4, Subsection 3-2.5, Chapter 6 and Chapter 8 shall not apply; and
2. The phrase "that can be built upon" shall be deleted.

3. Only technical standards relating to public health and safety are adopted by reference. The administrative and reporting procedures of the referenced standard are not adopted and are replaced by the administrative provisions of this chapter.

(b) Where any conflict occurs between the standards prescribed in (a) above and these rules, these rules shall prevail.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).
In (d): deleted (d)1-3 referring to BOCA codes. Added new (e).
Amended by R.1995 d.391, effective July 17, 1995.
See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).
Amended by R.2001 d.141, effective May 7, 2001.
See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).
Substituted "1998" for "1995" throughout; in (a)1, inserted "Subsection 3-2.5," preceding "Chapter 6".
Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Rewrote the section.

5:18-3.2 Container markings

All containers shall be marked in accordance with N.J.A.C. 5:18-1.6.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).
In (a): revised text from "125 gallons water" to "100 pounds product" regarding container capacity. Added Federal Register citation. In (b): revised text, adding reference to marking containers.
Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Rewrote the section.

5:18-3.3 Container storage

(a) Containers shall be installed outside of buildings, except as provided in N.J.A.C. 5:18-3.1(a), whether of the portable type replaced on a cylinder exchange basis or permanently installed and refilled at the installation.

(b) Containers installed outside of buildings shall be located with regard to property lines other than public ways, buildings, or bulk storage of hazardous materials in accordance with Table 3-2.2.2 of Liquefied Petroleum Gas Code, NFPA No. 58-1998.

1. The term "buildings" as used in this subsection shall not be construed to include the buildings described in paragraph 3-2.2.6 of the referenced standard.

2. The term "hazardous materials" as used in this subsection shall recognize the specific requirements for the specific hazardous materials described in paragraph 3-2.2.7(e) and (f) of the referenced standard.

(c) Containers installed outside of buildings shall be located with regard to the near side of a public way in accordance with the schedule of aboveground containers of Table 3-2.2.2 of Liquefied Petroleum Gases, NFPA No. 58-1998, as provided below:

1. For containers of 30,000 gallons water capacity or less a distance of at least 50 percent of said schedule;

2. For containers of over 30,000 gallons water capacity a distance of at least 100 percent of said schedule.

(d) Existing containers, installed prior to the effective date of these rules, need not comply with the distances provided in (b) and (c) above provided:

1. The containers were in conformance with the applicable chapter of the N.J.A.C. in effect at the time of installation; and

2. The containers as so located do not constitute a serious and substantial threat to the health and safety of the public.

(e) Installations of LP-Gas systems with aboveground containers of 90,000 gallons individual or aggregate water capacity or more that present a serious exposure hazard shall be protected by one or more of the following: distances at least 50 percent greater than the schedule of aboveground containers of Table 3-2.2.2 of Liquefied Petroleum Gas Code, NFPA No. 58-1998, water spray protection, fixed monitors, or insulation.

(f) If more than six containers, each of which is of 2,000 gallons water capacity or more, are used at a single site, the containers shall be separated into batteries of not more than six containers with batteries separated from each other by the distances required for the schedule for mounded or underground containers of Table 3-2.2.2 of Liquefied Petroleum Gas Code, NFPA No. 58-1998.

(g) When the required distance from a property line to an LP-Gas container cannot be obtained, the commissioner may approve a lesser distance if some other approved means of protection is provided for the system and reasonable protection for the health and safety of the public is maintained.

(h) In case of storage in heavily populated areas or congested areas, or near places of public assembly, the Commissioner may require the owner to submit a risk analysis based on a recognized standard and may impose restrictions on individual tank capacity, total storage, distance to property lines, and other reasonable protective measures.

(i) Where there is a possibility of damage to storage containers from motor vehicles or other heavy objects, protection against such damage shall be provided. This protection shall meet the following minimum requirements:

1. Crash posts are to be a minimum of four inch schedule 40 pipe and painted yellow.

2. Crash posts are to be buried three feet six inches deep, extend three feet above grade, and be filled with concrete.

3. Posts are to be encased below grade in concrete at least 18 inches in diameter and three feet six inches in depth.

4. Posts are to be set at four feet six inches maximum centers.

5. The crash protection shall be installed a minimum of 24 inches from the LP container(s).

(j) In areas where high speed and heavy duty traffic occurs, the following shall be the requirements for motor vehicle protection:

1. Posts are to be minimum of six inches schedule 40 pipe and painted yellow.

2. Posts are to be buried a minimum of 48 inches deep, and extend a minimum of 48 inches above grade, and be filled with concrete.

3. Posts are to be set at four feet maximum centers.

4. Posts are to be encased below grade in concrete of at least 24 inches in diameter and 48 inches in depth.

5. The crash protection shall be installed a minimum of 24 inches from the LP container(s).

(k) Highway barrier installed as per New Jersey Department of Transportation specifications may be substituted for crash posts as described in (i) and (j) above.

(l) The tops of storage containers shall be in the same horizontal plane, when the containers are interconnected by liquid piping.

(m) Storage areas having containers exceeding 100 pounds product water capacity shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The "FLAMMABLE GAS" sign shall be marked "FLAMMABLE GAS" and the name of the gas to indicate the contents such as "FLAMMABLE GAS-PROPANE" or "FLAMMABLE GAS-BUTANE".

(n) Storage containers shall not be placed under an electric power service transmitting voltage in excess of 240 volts or within six feet of a line projected vertically from any edge of the container.

(o) Cargo tank vehicles and tank cars shall not be used as a permanent storage facility.

1. Cargo tank(s) shall not be filled from another cargo tank.

(p) Aboveground containers exceeding 2,000 gallons individual water capacity shall be oriented so that their longitudinal axes do not point toward other LP-Gas containers within that installation.

(q) Dead trees or dead branches overhanging containers that can fall and dislocate a container from its piping shall be removed.

(r) Containers proposed for mounding or underground installation shall be provided with cathodic protection in addition to a suitable coating for corrosion protection.

1. Cathodic protection will not be required if a professional engineer certifies in writing to the Department that based on his or her soil investigation such protection is unnecessary.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Stylistic revisions throughout text. In (i), added "... substantial bumper guards ... or equivalent" to text. In (k), revised "125 gallons aggregate water" to "100 pounds product" capacity. Added new (p). Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Administrative change.

See: 32 N.J.R. 3394(a).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Substituted "1998" for "1995" throughout; in (b), deleted "important" preceding "buildings"; in (c), substituted "3-2.2.2" for "3-1" preceding "of Liquefied Petroleum Gases".

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Substituted "Liquefied Petroleum Gas Code" for "Liquefied Petroleum Gases" throughout; in (b), amended paragraph references throughout; in (e), inserted "LP-Gas Systems with" following "Installations of"; in (f), substituted "site" for "installation" following "single"; rewrote (h) and j(4).

Administrative correction.

See: 37 N.J.R. 2486(a).

Case Notes

Township could not determine safety of land use for liquid propane gas storage following determination by Commissioner of Labor and Industry. (citing former N.J.A.C. 12:200-5.8). *Scheff v. Tp. of Maple Shade*, 149 N.J.Super. 448, 374 A.2d 43 (App.Div.1977), certification denied 75 N.J. 13, 379 A.2d 244.

5:18-3.4 Distributing points, distributing plants and industrial plants

(a) This section shall apply to the following:

1. Distributing points of any capacity; or

2. Distributing plants of any capacity; or

3. Industrial plants of 2,000 gallons aggregate water capacity or more.

(b) If loading or unloading is normally done during other than day-light hours, adequate lights shall be provided to illuminate storage containers, control valves and other LP-Gas equipment.

(c) Suitable roadways or means of access for extinguishing equipment, such as wheeled extinguishers or fire department apparatus shall be provided.

(d) The LP-Gas system shall be enclosed within an industrial type fence at least six feet high with at least two egress gates opening outward and remotely located from each other, or be within an approved fenced plant area and protected from tampering.

(e) The LP-Gas system shall be protected against vehicle damage with substantial bumper guards, where necessary. Bumper guards shall be, as a minimum, four-inch diameter schedule 40 concrete filled steel pipe properly imbedded in concrete on a maximum of four-feet six-inch centers, or equivalent.

(f) The storage, loading, unloading, cylinder filling areas, and other strategic points shall be adequately posted in accordance with N.J.A.C. 5:18-3.3(m).

(g) Approved extinguishers of adequate capacity of the carbon dioxide or dry chemical type shall be provided at strategic locations, such as storage sites, unloading and loading racks, filling or charging locations, pump, compressor and vaporizer locations.

(h) The Commissioner may require reasonable fire protection facilities for LP-Gas systems exceeding 4,000 gallons aggregate water capacity.

(i) The point of connection of an unmounted portable container being filled (point of transfer) shall be not less than five feet from the dispensing unit or a storage container of 2,000 gallons water capacity or less.

1. If weather protection for a scale is to be provided, such protection shall be constructed of non-combustible material except that the roofing material may be transparent corrugated plastic.

(j) Liquefied petroleum gas dispensers shall not be located on the same island as a Class I liquid dispenser.

(k) A pump stop-start switch at a distributing point shall be located inside the fence enclosure near the point of transfer.

(l) LP Gas liquid and vapor shall be conveyed from the container to the building by rigid piping, properly installed and protected. Piping may be either metallic or plastic in accordance with N.J.A.C. 5:18-3.1.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

In (e): added text regarding bumper guards. Added new (i)1 and (j)-(k).

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

In (f), amended the N.J.A.C. reference; in (h), substituted "systems" for "installations".

5:18-3.5 Standby and peak shaving plants

(a) In any system requiring venting of LP-Gas or LP-Gas-air-mixtures, the gases shall be flared or disposed of in a manner approved by the Commissioner.

(b) A flare stack shall be provided at least 25 feet away from hazardous locations such as storage, loading or unloading and filling areas.

(c) The flare shall have a separate gas pilot line with spark ignited burner.

(d) A flash back preventer shall be installed in the flare line or stack.

(e) These systems shall be designed in accordance with safe operating, inspection and maintenance procedures and in accordance with all applicable provisions of these rules.

(f) LP-Gas standby systems shall be designed to maintain the required BTU value of the gas-air mixture within the operating limitations of the system.

(g) The LP-Gas system capacity turn down ratio shall be such that no prolonged burning at the flare stack is necessary.

(h) Standby systems shall be protected by safety devices and alarms that will shut down the system and notify plant personnel if loss of pressure or overpressure occurs in the mixed gas line or in either the gas or air line.

(i) Propane shall not be substituted for butane nor butane for propane in any standby or peak shaving system unless the system was designed for the substitute gas and has the approval of the Commissioner.

(j) Plant operating personnel shall be instructed in procedures for safe operation and emergency shut down.

Amended by R.2000 d.269, effective July 3, 2000.

See: 32 N.J.R. 738(a), 32 N.J.R. 2425(a).

In (i), substituted a reference to shaving for a reference to sharing.

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

In (e), inserted "and in accordance with all applicable provisions of these rules" at the end of the paragraph; in (f), substituted "BTU value" for "Btu valve".

5:18-3.6 Cylinder exchange cabinets

(a) In addition to complying with the requirements of Chapter 5 of the Liquefied Petroleum Gas Code, NFPA No. 58-1998, the operator of every location providing LPG cylinder exchange cabinets shall:

1. Ensure that exchange cylinders are properly secured at all times by locking them within a receptacle designed for this purpose and that proper ventilation is maintained at all times;

2. Ensure that all cylinders are stored in the exchange cabinet in an upright position with the valve outlet plugged and that no cylinders are left unattended or in an open area away from the protected area of the exchange cabinet or in any other location;

3. Comply with all provisions of section F-3605.0 of the Fire Prevention Code, N.J.A.C. 5:70-3;

4. Ensure that cylinder exchange cabinets are set on a secure, non-combustible base and are located at least 20 feet from any building opening or source of ignition and are not located or stored within a structure;

5. Comply with the maximum cylinder size and distance requirements specified in NFPA-58/1998 edition, Table 5-4.1;

6. Ensure that the following information is on signs affixed to the cabinet:

- i. "Propane" or "Flammable Gas";
- ii. "No Smoking";
- iii. A 24-hour emergency telephone number; and
- iv. Location of fire extinguisher(s);

7. Ensure that all full cylinders placed in the cabinet have a proper consumer warning label affixed, are re-qualified as per NFPA-58, Appendix C, and are painted a light reflecting color;

8. Ensure that a warning sign is posted at or near each entrance doorway stating that "LP-GAS EXCHANGE CYLINDERS, EMPTY OR FULL, SHALL NOT BE TAKEN INDOORS FOR ANY REASON."; and

9. Ensure that all employees who exchange cylinders are properly trained and know how to check for leaks and what emergency procedures to follow if a leak is discovered. Only properly trained employees shall remove cylinders from or place cylinders in the cylinder exchange cabinet. This training shall be as approved by the Bureau and in accordance with these rules.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

5:18-3.7 Unsafe container or system

(a) Any system or container that does not comply with the requirements of this chapter or any standards incorporated by reference and that constitutes an immediate threat to safety shall be designated as unsafe by the Bureau by means of a tag prohibiting use that shall include the inspector's name and the date of inspection.

(b) Any system or container that has been tagged so as to prohibit use shall not be used until all deficiencies have been corrected.

1. The owner of any system or container thus tagged shall be notified immediately by the Bureau and provided

with a copy of the inspection report in which the deficiencies are indicated.

(c) A tag prohibiting use shall not be removed from a system or container until the Bureau determines that all deficiencies have been corrected and removed, or authorizes removal of the tag. The tag shall be returned to the Bureau immediately following removal.

New Rule, R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

SUBCHAPTER 4. NFPA NO. 59 SYSTEMS

5:18-4.1 Standards adopted by reference

(a) "Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants," NFPA No. 59-1998, is hereby adopted by reference, except that:

1. The phrase "which can be built upon" shall be deleted; and

2. Only technical standards relating to public health and safety are adopted by reference. The administrative and reporting procedures of the referenced standard are not adopted and are replaced by the administrative provisions of this chapter.

(b) Where any conflict occurs between the standards prescribed in (a) above and these rules, these rules shall prevail.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

In (e): deleted (e)1 and 2 referring to BOCA codes, adding new text at (e). Relettered old (e)3 as new (f), updating dates and citations.
Amended by R.1995 d.391, effective July 17, 1995.
See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).
Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

5:18-4.2 Container markings

Containers of liquefied petroleum gases at utility gas plants shall be marked in accordance with N.J.A.C. 5:18-1.6.

Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Amended N.J.A.C. reference.

5:18-4.3 Container storage

(a) Containers of liquefied petroleum gases at utility gas plants shall be located with regard to property lines other than a public way, buildings or bulk storage of hazardous materials in accordance with the applicable schedule of Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-1998.

(b) Containers of liquefied petroleum gases at utility gas plants shall be located with regard to the near side of a public way in accordance with the applicable schedule for aboveground containers of Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59-1998.

(c) When the required distance from a property line to an LP-Gas container cannot be obtained, the Commissioner may approve a lesser distance if some other approved means of protection is provided for the system and reasonable protection for the health and safety of the public is maintained.

(d) In case of storage in heavily populated areas or congested areas, or near places of public assembly, the Commissioner may require the owner to submit a risk analysis based on a recognized standard and may impose restrictions on individual tank capacity, total storage, distance to property lines, and other reasonable protective measures.

(e) Storage areas having LP-Gas containers shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The "FLAMMABLE GAS" sign shall be marked "FLAMMABLE GAS" and the name of the gas to indicate the contents such as "FLAMMABLE GAS-PROPANE" or "FLAMMABLE GAS-BUTANE".

(f) Storage containers shall not be placed under an electric power service transmitting voltage in excess of 240 volts or within six feet of a line projected vertically from any edge of the container.

(g) Aboveground containers exceeding 2,000 gallons individual water capacity shall be oriented so that their longitudinal axes do not point toward other LP-Gas containers within that installation.

Amended by R.1990 d.436, effective September 4, 1990.
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Updated dates for NFPA citations.
Amended by R.1995 d.391, effective July 17, 1995.
See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).
Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Substituted "59-1998" for "59-1995" throughout; in (a), deleted "important" preceding "buildings"; rewrote (d).

Case Notes

Township could not determine safety of land use for liquid propane gas storage following determination by Commissioner of Labor and Industry (citing former N.J.A.C. 12:200-3.4). *Scheff v. Tp. of Maple Shade*, 149 N.J.Super. 448, 374 A.2d 43 (App.Div.1977) certification denied 75 N.J. 13, 379 A.2d 244.

5:18-4.4 Fencing

The LP-Gas system shall be enclosed within an industrial type fence at least six feet high with at least two egress gates opening outward and remotely located from each other, or be within an approved fenced plant area and protected from tampering.

(c) One set of the returned plans shall be kept on the construction site for inspection services by the Bureau during the entire construction period for the system.

(d) If a set of plans has been released and construction has not been completed within 18 months from the date of plan release, the plan release for that site shall be considered expired unless extended or renewed by the Commissioner.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Recodified from N.J.A.C. 12:200-5.2. In (e)1: added "the product not exceeding five percent of tank capacity . . ." to text.

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote (a); in (b), substituted references to released for approved and Bureau for Office of Safety Compliance throughout and added 1; deleted (d) and (e) and recodified former (f) as (d).

5:18-6.3 Approval of new LP-Gas system

(a) All new LP-Gas systems for which plans are required pursuant to N.J.A.C. 5:18-6.1 and all systems of over 2,000 gallons aggregate water capacity that will remain in place for six months or less shall be subject to inspection by the Bureau, after erection, to ensure that the LP-Gas facility is constructed in accordance with the requirements of this chapter. The inspection shall be performed after receipt of notification of completion from the professional engineer of record, who shall submit the completed application form and a letter of completion to the Bureau. The inspection shall be made within seven business days of receipt of a request for inspection by the Bureau. If the erected site conforms to the requirements of this chapter, a certificate of approval shall be issued to the applicant or the professional engineer of record.

1. Exception: An engineering report shall not be required for systems that will remain in place for six months or less. For such systems, the applicant shall submit a request for inspection to the Bureau.

(b) Containers shall not be filled until the approval covered in (a) above has been obtained, except that:

1. Product not exceeding five percent of tank capacity may be placed in the container so that tests and adjustments may be made by the installer; or

2. Containers may be filled for emergency or critical use, when approved by the Commissioner.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Added new (a)1, with updated revisions in text.

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Substituted "notice of LP gas installation" for "project data report" throughout.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-6.3, Submittal of notice of L-PGas installation, is recodified to N.J.A.C. 5:18-6.4.

5:18-6.4 Submittal of notice of LP-Gas installation

(a) A notice of LP-Gas installation shall be filed for all new liquefied petroleum gas systems for which plans are not required under N.J.A.C. 5:18-6.1(b), except that a notice of LP-Gas installation is not required for a system that has an individual or aggregate water capacity of 250 water gallons or less.

(b) The notice of LP-Gas installation required by (a) above shall be filed with the Bureau of Code Services upon installation of new liquefied petroleum gas systems and shall be filed before issuance of a Certificate of Approval, certifying that the work has been completed in accordance with the provisions of the code, except as is otherwise provided in this chapter. The local code official shall not accept an application for a Certificate of Approval without a copy of the notice of LP-Gas installation.

(c) The notice of LP-Gas installations shall be filed with the New Jersey Department of Community Affairs, Division of Codes and Standards, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816.

(d) The notice of LP gas installation shall contain the following information:

1. Name of owner and user of LP-Gas facility;
2. Street address of facility;
3. Municipality and county where facility is located;
4. Telephone number of user of LP-Gas facility;
5. Number and size of LP-Gas containers.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Added new (a)1, with updated revisions in text.

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Substituted "notice of LP gas installation" for "project data report" throughout.

Recodified from N.J.A.C. 5:18-6.3 and amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

Amended by R.2004 d.199, effective June 7, 2004.

See: 36 N.J.R. 910(a), 36 N.J.R. 2733(a).

Rewrote (b).

SUBCHAPTER 7. VIOLATIONS, ADMINISTRATIVE PENALTIES AND HEARINGS

5:18-7.1 Violations/penalties

(a) Any person, firm, association or corporation who violates any of the provisions of the Act, or of the rules

adopted thereunder, shall be liable for a penalty of not less than \$50.00, nor more than \$500.00.

(b) Each day during which any violation of the Act or the rules adopted thereunder continues shall constitute an additional, separate and distinct offense.

(c) In assessing the amount of the penalty to be imposed pursuant to the Act and to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular cited violation:

1. The seriousness of the cited violation;
2. The past record of compliance with the provisions of the Act, and the rules adopted thereunder, by the alleged violator;
3. The degree of cooperation afforded to the Commissioner's representatives by the alleged violator in securing compliance with the provisions of the Act and rules adopted thereunder; and
4. Whether the cited violation was willful in nature.

5:18-7.2 Hearings

(a) Whenever a notice of violation and/or penalty is levied pursuant to this chapter, the alleged violator shall be provided with:

1. Notification of the violation;
2. The amount of the penalty to be imposed; and
3. An opportunity to request a formal hearing.

(b) A request for a formal hearing must be made in writing and received within 21 calendar days following service of the Commissioner's notice of violation.

(c) All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) If a hearing is not requested within 21 calendar days following receipt of the notice of violation, the notice of violation shall become the Final Order upon expiration of the 21 day period following receipt thereof.

(e) The alleged violator may request the initiation of a settlement conference at the time that the request for a formal hearing is made. If a settlement conference is requested, or the Department determines that a settlement conference would be useful, the settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the request for a formal hearing.

(f) If a settlement is not agreed upon or no settlement conference is scheduled, the matter shall be transmitted to the Office of Administrative Law (OAL) for a hearing.

(g) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.

(h) All payments shall be made payable to the Department of Community Affairs in the form of a certified check or money order, or such other form as the Department deems suitable.

(i) Upon entry of the final decision, the penalty imposed may be recovered with costs pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.

Administrative change.
See: 32 N.J.R. 835(a).
Administrative correction.
See: 36 N.J.R. 3525(a).

5:18-7.3 Correction of violations

(a) In addition or as an alternative to the penalties set forth in N.J.A.C. 5:18-7.1, any person, firm or corporation who violates, or remains in violation of any of the provisions of the Act, or the rules adopted thereunder, may be directed and ordered by the Commissioner, by way of a written notice, to take the remedial steps necessary to correct the cited violation. Such notice shall be:

1. Served personally upon the alleged violator; or
2. Mailed by registered or certified mail to:
 - i. The principal office of the person, firm or corporation; or
 - ii. If the alleged violator is an individual, or are individuals, such notice shall be mailed to his or her, or their residence.

(b) If the Commissioner's order is not complied with and the cited violation is not corrected within 20 days of the date of service of the order, the Commissioner may institute an action for injunctive relief or for an abatement in Superior Court.

(c) Every such order issued by the Commissioner under the provisions of the Act, or the rules adopted thereunder, shall be prima facie evidence of the truth of the matter and contents set forth therein.

(d) No appeal taken by the alleged violator shall suspend the operation on an order made by the Commissioner unless, in the opinion of the court, justice may require suspension thereof pending final disposition of the appeal.

SUBCHAPTER 8. ANNUAL ASSESSMENTS

Authority
N.J.S.A. 21:1B-2 and 15.

Source and Effective Date

R.2001 d.240, effective July 16, 2001.
See: 33 N.J.R. 1227(a), 33 N.J.R. 2462(a).

5:18-8.1 Amount of annual assessment

Beginning July 1, 2001 and in every State fiscal year thereafter, there shall be an annual assessment levied upon liquefied petroleum gas in the amount of one-fifteenth of one cent per gallon.

5:18-8.2 Payment of annual assessment

(a) The owner of liquefied petroleum gas immediately prior to odorization shall be responsible for the payment of the assessment on the volume of liquefied petroleum gas at the time of import or odorization, whichever is earlier.

(b) All assessments shall be payable to "Treasurer, State of New Jersey" and shall be remitted to the Bureau of Code Services, PO Box 816, Trenton, NJ 08625-0816 on a quarterly basis on or before the 25th day of the month following the end of the quarter.

(c) A penalty of five percent shall be added to all payments received by the Bureau after the 25th day of the month following the end of the quarter.

(d) In addition to the penalty imposed under (c) above, interest at an annual rate of 12 percent shall be added to all payments received by the Bureau 30 days or more after the 25th day of the month following the end of the quarter.

Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

5:18-8.3 Forms

(a) The following forms, which are incorporated by reference as Appendix B of this chapter, shall be used for the purposes indicated:

1. Remittance Report (LPG-1);
2. Odorizer or Importer Registration (LPG-2);
3. Load Exemption: Certificate of LPG Destined for Export (LPG-3);
4. LPG Usage Report (LPG-4);
5. Assessment Refund Request (LPG-5); and
6. Odorization Report for Terminal Operators (LPG-6)

SUBCHAPTER 9. QUALITY CONTROL AND MAINTENANCE AUDITS

Authority

N.J.S.A. 21:1B-2, 9 and 15.

Source and Effective Date

R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

5:18-9.1 Registration of LPG bulk and industrial plants

(a) The owner or operator of a LP-Gas facility, including producers, bulk plants and industrial plants of 10,000 gallons water capacity or more, gas utility plants, marine or pipeline terminals or tank farms, shall register with the Bureau on forms provided by the Bureau.

(b) The registration shall include information as to all locations at which odorized or unodorized LP-Gas is stored or sold by the business, whether at the facility or elsewhere.

5:18-9.2 Quality control manual and records

(a) The owner or operator of a facility required to be registered pursuant to N.J.A.C. 5:18-9.1 shall prepare, maintain and follow a quality control manual which shall, at a minimum, include the following:

1. A cover sheet indicating the full name of the owner and operator and the street address of the facility;
2. An organization chart detailing the lines of communication and authority and identifying the individual, who shall be a senior company official, who is responsible for implementation of the quality control manual;
3. A complete site plan for each registered facility and a process flow diagram that illustrates piping, valves, equipment, and emergency shutdowns of the facility;
4. A description of a training program for LPG handling and safety approved by the Bureau of Code Services. The training program shall meet the following requirements:
 - i. There shall be ongoing training for all individuals involved in the operation and maintenance of LPG equipment; and
 - ii. All training shall be consistent with national standards for LPG safety training and with this chapter;
5. Standard operating procedures (SOP) and checklists for each facility in order to ensure, at a minimum, safe operation. Any such SOP or checklist shall include, where applicable, but not be limited to, the following:
 - i. Filling, refilling and/or venting containers;
 - ii. Delivery of LPG to any location. A checklist shall be provided to each driver and, when requested, to the Bureau inspector, to ensure that proper procedures, as required by this chapter, are followed;
 - iii. Evacuation of cylinders;
 - iv. Emergency procedures;
 - v. Accident reporting and documentation;

vi. Installation guidelines and standards for every type of container;

vii. Repair or reconditioning of vessels; and

viii. Testing, repair and maintenance of pressure relief valves and other control or flow devices;

6. Documentation of compliance with the NJDEP Risk Management Program, if applicable, including details specific to the following:

i. Plant safety information, including hazard review scenarios with both normal and emergency shutdown procedures;

ii. System operating procedures;

iii. Employee training;

iv. Maintenance procedures and programs;

v. Compliance audits;

vi. Plant fire safety analysis; and

vii. Incident investigations;

7. Documentation assuring that only acceptable materials are used for new, existing or replacement systems and that all required materials are properly identified when received; and

8. Nonconformance reports documenting all conditions not conforming to this chapter and ensuring that any problems identified through procedures, controls, inspections, specifications or testing are effectively corrected and documented.

(b) The owner or operator of a facility shall maintain a file system for equipment inspection records, which shall list, by number and such abbreviated description as may be necessary for identification, each ASME pressure vessel covered by these rules, the date of the last inspection of the vessel, and the approximate date for the next inspection.

(c) The owner or operator of a facility shall maintain the following records for the times specified:

1. Manufacturer's data reports of new and used pressure vessels: life of the vessel;

2. All documentation of repairs: life of the vessel;

3. Reports of training: term of employment;

4. Reports of nonconformance: five years; and

5. All results of nondestructive examination tests and other tests and all repair or alteration documentation: life of the vessel.

(d) The Bureau shall have free access to the records of the facility maintained under (a), (b), and (c) above.

5:18-9.3 Pressure vessel maintenance, repair and alteration

Any pressure vessel code item shall be maintained, repaired and altered in accordance with the original code of construction, the National Board Inspection Code, the applicable ASME code and this chapter.

5:18-9.4 Certificates of operation and audits

(a) The owner or operator of a facility required to be registered pursuant to N.J.A.C. 5:18-9.1 shall be audited by the Bureau triennially after a satisfactory initial audit.

(b) Upon successful completion of an initial audit, the Bureau shall issue a site-specific certificate of operation, which shall be valid for three years.

(c) The certificate of operation shall indicate that the facility is in compliance with all applicable requirements of this chapter and shall be posted at a conspicuous location within the facility where it may be inspected by representatives of the Bureau and members of the public.

(d) In the event that an audit is not successful, an owner or operator shall be given 30 days to address all identified deficiencies. Subsequent audits shall be made as necessary in order to verify compliance with all applicable requirements.

1. The owner or operator may apply for, and the Bureau may grant, an extension of time to address deficiencies if the Bureau finds that such extension is needed, that the owner is making a good faith effort to correct deficiencies and that there is no threat to public health or safety.

(e) Failure to remove any violations found as a result of an audit made by the Bureau shall result in issuance of a written notice to abate the violations. Correction of violations shall be done in accordance with N.J.A.C. 5:18-7.3.

SUBCHAPTER 10. LICENSING

Authority

N.J.S.A. 21:1B-2, 9 and 15.

Source and Effective Date

R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

5:18-10.1 Licenses required

(a) No person, firm or corporation shall engage in the business of marketing LP-Gas within the State of New Jersey without being licensed to do so by the Bureau.

(b) A license issued by the Bureau shall be valid for a period of 36 months.

(c) No license shall be issued to any person, firm or corporation that does not maintain general liability insurance in an amount of not less than \$5,000,000.

(d) No license shall be issued to any person, firm or corporation that markets LP-Gas and does not maintain either an adequate storage capacity for customers or contract(s) with other marketers to provide LP-Gas.

(e) Retention and reissuance of a license shall be contingent upon satisfactory completion of all audits required pursuant to this chapter.

Amended by R.2004 d.199, effective June 7, 2004.

See: 36 N.J.R. 910(a), 36 N.J.R. 2733(a).

In (c), deleted "per occurrence" following "\$5,000,000".

5:18-10.2 Application for licensure; fees

(a) An application for licensure shall be submitted on a form provided by the Bureau and shall include the following information:

1. The name of the business;
2. The names, addresses and telephone numbers of the officers, directors, partners or proprietors of the business;
3. The activities having to do with LP-Gas in which the business is engaged in the State of New Jersey;
4. Proof of insurance as required by N.J.A.C. 5:18-10.1(c);
5. The location(s) at which or from which each such activity is conducted and the LP-Gas storage capacity at each such location or information on contracts with other marketers to provide LP-Gas;
6. Emergency contact information in conformance with N.J.A.C. 5:18-1.7;
7. A listing of all persons employed by the business who are in any way engaged in handling LP-Gas, together with the locations at which they work and Certified Employee Training Program (CETP) of the National Propane Gas Association certifications held by them;
8. A statement indicating whether or not the business, or any officer, director, partner or proprietor of the business, has at any time within the previous ten years been the subject of any order or finding of violation by any governmental entity with regard to the business or any other LP-Gas business or has been convicted of any crime or of any offense involving the business or any other LP-Gas business; and
9. A certification that the information set forth in the application is complete and correct.

(b) Each application for a license shall be accompanied by a fee in the amount of \$100.00. Checks shall be made payable to "Treasurer, State of New Jersey."

5:18-10.3 Employee certification

(a) Any employee of a marketer licensed pursuant to N.J.A.C. 5:18-10.1 handling LP-Gas shall obtain Certified Employee Training Program (CETP) of the National Propane Gas Association certification for Book One, "Basic Principles and Practices," within three months of the date of hiring.

1. All employees of a licensed marketer who are responsible for delivering propane shall take and pass part 2.1 of the CETP program, and shall pass part 2.2 if they drive a bulk delivery vehicle, part 2.4 if they drive a cylinder delivery truck or part 2.5 if they are involved in the transportation/relocation of ASME tanks.

2. All employees of a licensed marketer who are responsible for plant operations such as maintaining, purging or reconditioning tanks, shall pass parts 3.1, 3.2, 3.3, and 3.4 of the CETP program and shall pass, as applicable, part 3.5 or 3.6 if the employee is responsible for any aspect of cargo tank product transfers or rail car transfers, respectively.

3. All employees of a licensed marketer who are responsible for the installation, alteration or repair of propane distribution systems shall pass part 4.2 of the CETP program.

4. The appropriate parts of 2, 3 and 4 of the CETP program must be completed within 21 months of the date of hire or by September 6, 2005, whichever is later.

5. The licensed LP-Gas marketer shall maintain documentation from CETP that each employee, responsible for any specific task listed above, has passed the appropriate CETP test(s) and the required practicum(s) for the task(s).

6. Employees who have completed the previous version of Book One, "Basic Principles and Practices," Book Two, "Propane Delivery," Book Three, "Plant Operations," and Book Four, "Distribution System Operations" of the CETP program are deemed to comply with this rule.

(b) Licensees shall maintain records of employee certification and shall make those records available to the Bureau upon request.

Amended by R.2005 d.174, effective June 6, 2005.

See: 36 N.J.R. 5282(a), 37 N.J.R. 2012(c).

Rewrote (a).

5:18-10.4 Fill plant and dispensing station operator training

(a) All fill plant or dispensing station operators shall be trained using the "Dispensing Propane Safely" manual (2000 edition) published by the National Propane Gas Association, incorporated herein by reference, or an equivalent accepted by the Department. An employee shall receive training prior to dispensing LP-Gas. It shall be the responsi-

bility of the business operating the tank, working together with the marketer, to ensure all employees dispensing LP-Gas are trained properly.

(b) Licensees shall maintain records of employee training and shall make those records available to the Bureau upon request.

New Rule, R.2003 d.250, effective July 7, 2003.

See: 35 N.J.R. 1176(a), 35 N.J.R. 2864(a).

Section was Reserved.

5:18-10.5 Suspension and revocation of licenses and certifications and alternative sanctions

(a) The Bureau may suspend or revoke a license, or may deny renewal or issuance of a license, upon a finding that an applicant or licensee has engaged in acts or omissions harmful to public safety or to the protection of the public. Factors in determining whether a license should be revoked or suspended, or for how long a suspension should be in effect, shall include, but not be limited to, the extent and duration of the hazard to the public, the extent to which willful or reckless behavior was evident, prior history of like or similar violations and the extent to which appropriate corrective action was taken.

(b) As an alternative to revocation or suspension of a license, the Bureau may assess a civil penalty, in accordance with N.J.S.A. 21:1B-5, or may issue a letter of warning, reprimand or censure, if the Bureau determines any such action to be warranted. Any penalty imposed or letter issued shall be part of the licensing file of the business or individual, as the case may be.

(c) Conviction of a crime, or of an offense in connection with the LP-Gas business, shall constitute grounds for suspension or revocation of a license.

(d) Any person to whom the Bureau denies a license, or whose license is suspended or revoked, or who is ordered to pay a civil penalty, shall be entitled to appeal the action of the Bureau in an administrative hearing conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The final decision shall be issued by the Commissioner.

APPENDIX A

AVAILABILITY OF STANDARDS AND PUBLICATIONS

REFERRED TO IN THIS CHAPTER

A copy of each of the standards and publications referenced in this chapter is on file and may be inspected at the following office of the Division of Codes and Standards between the hours of 9:00 A.M. and 5:00 P.M. on normal working days:

State of New Jersey
Department of Community Affairs
Division of Codes and Standards
101 South Broad Street
Trenton, New Jersey

Copies of the referenced standards and publications may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meanings and refer to the organizations issuing the standards and publications listed or to volumes of statutes or administrative rules.

API	American Petroleum Institute 1220 L Street Northwest Washington, D.C. 20005
BOCA	Building Officials and Code Administration 4051 W. Flossmoor Rd. Country Club Hills, Illinois 60477-5795
CFR	Code of Federal Regulations Copies available from: Superintendent of Documents Government Printing Office Washington, D.C. 20402
NFPA	National Fire Protection Association Batterymarch Park Quincy, Massachusetts 02269
N.J.A.C.	New Jersey Administrative Code Copies of N.J.A.C. 5:18 are available from: Bureau of Code Services New Jersey Department of Community Affairs PO Box 816 Trenton, New Jersey 08625-0816 Copies of N.J.A.C. 5:70-3 are available from Division of Fire Safety New Jersey Department of Community Affairs PO Box 809 Trenton, New Jersey 08625-0809
N.J.S.A.	New Jersey Statutes Annotated Copies of N.J.S.A. 21:1B-1 et seq. are available from: Bureau of Code Services New Jersey Department of Community Affairs PO Box 816 Trenton, New Jersey 08625-0816
USC	United States Code Copies available from: Occupational Safety and Health Administration U.S. Department of Labor 1515 Broadway New York, New York 10036

No. and Edition
API-2510-1995

Title
American Petroleum Institute
2510-1995, Design and Construction of Liquefied Petroleum Gas Installations
The BOCA National Building Code

BOCA-1996

NFPA No. 30-1993 Flammable and Combustible Liquids Code
NFPA No. 58-1998 Liquefied Petroleum Gas Code
NFPA No. 59-1998 Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants
N.J.A.C. 5:70 New Jersey Uniform Fire Code
N.J.A.C. 5:23 New Jersey Uniform Construction Code
N.J.A.C. 5:11 Boilers, Pressure Vessels and Refrigeration

N.J.S.A. 21:1B-1 et seq. Liquefied Petroleum Gas Act
29 USC 651 et seq. Occupational Safety and Health Act

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Updated citations, addresses and added API to appendix.

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Updated citations, addresses.